

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

CHARLES T. MCINTOSH

Plaintiff,

v.

Case No. 09-C-1106

CAPTAIN JADIN, et al.,

Defendants.

ORDER

Plaintiff Charles T. McIntosh proceeds pro se in this civil rights action under 42 U.S.C. § 1983. This matter is before me on plaintiff's motion to compel copies of his medical records from the Brown County Jail, along with various medical request forms, grievances and disciplinary orders applicable to the jail's medical staff. (Doc. # 21.) The defendants have not responded to the motion, though it does appear that since the motion was filed they have produced certain documents to plaintiff.

Although Fed. R. Civ P. 37 permits the court to compel discovery, the party seeking such discovery must complete several steps before court intervention is appropriate. The party seeking discovery must first direct his request to the opposing party. If the opposing party fails to provide the materials, the party must then personally consult with the opposing party and attempt to resolve their differences. Civil L.R. 37 (E.D. Wis.). If the party is still unable to obtain discovery, he may file a motion to compel discovery with the court pursuant to Fed. R. Civ. P. 37(a). Such motion must be accompanied by a written certification by the movant that, "after the movant in good faith has conferred or attempted to confer with the person or party failing to make disclosure or discovery

in an effort to obtain it without court action, the parties are unable to reach an accord.” Civil L.R. 37 (E.D. Wis.). A motion to compel discovery pursuant to Rule 37(a) is addressed to the sound discretion of the trial court. *EEOC v. Klockner H & K Machines, Inc.*, 168 F.R.D. 233, 235 (E.D. Wis. 1996) (citation omitted).

Plaintiff did not comply with the proper procedure before bringing his motion to compel. His motion contains no representation that he attempted to confer with the defendants before filing his motion to compel. For this reason alone, plaintiff’s motion to compel is **DENIED**.

SO ORDERED this 21st day of April, 2010.

s/ William C. Griesbach
WILLIAM C. GRIESBACH
United States District Judge